Supreme Court, U. S.
FILED
SEP 26 1975

# APPENDIX

IN THE

*SUPREME COURT OF THE UNITED STATES*

OCTOBER TERM, 1975

No. 74-125

ALAMO LAND & CATTLE CO., INC.,

Petitioner,

-v.-

STATE OF ARIZONA,

Respondent.

ON WRIT OF CERTIORARI TO THE COURT

OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR CERTIORARI FILED AUGUST 15, 1974

CERTIORARI GRANTED MARCH 17, 1975

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[RECORD 224-228]

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

| | | |
|---|---|---|
| UNITED STATES OF AMERICA,<br><br>Plaintiff,<br><br>vs.<br><br>2,562.92 ACRES OF LAND, more or less, Situate in Yuma and Mohave Counties State of Arizona; MICHAEL WEINER, et al., AND UNKNOWN OWNERS,<br><br>Defendants. | ) | No. Civ-6005 Phx WEC<br><br>OPINION AND JUDGMENT |

The above entitled cause is a condemnation action instituted by the United States for the purpose of acquiring certain lands in the construction of the "Alamo Dam" and related facilities. The United States filed its notice of condemnation on May 31, 1966, and an order for delivery for possession was duly entered by this Court. Included in the lands to be taken were two parcels designated as Tract 304 and Tract 305. Tract 304 is described as:

> All of Section 2, Township 10 North, Range 13 West, Gila and Salt River Base and Meridian, Yuma County, Arizona.

Tract 305 is described as:

> All of Section 36, Township 11

North, Range 13 West, Gila and Salt River Base and Meridian, Yuma County, Arizona.

The United States fixed a value on Tract 304 in the amount of $48,220, and on Tract 305 a value of $70,400, or a total of $118,620 for both tracts. The money has been deposited with the Clerk of the Court.

The parties in interest to this phase of the litigation are the State of Arizona, the owner of the two tracts, and Alamo Land and Cattle Company, Inc., the lessee of the two tracts.

The sole issue before the Court is the division of the funds on deposit, according to the respective interests of the two parties. Both parties agree that the total amount awarded by the United States represents the fair market value of the premises condemned for their highest and best use.

The State asserts that the present value of the improvements placed upon the premises condemned totals $3,600, and that the State is entitled to the full amount on deposit, less the amount of the improvements, which amount claimed by the State is $115,020.

Alamo asserts that, were it not for the condemnation proceedings, the premises in question would have been continuously leased to it by the State, and the true value of the premises would be reflected in the use of the premises in connection with other properties owned or controlled by Alamo as a cattle ranch; that the property would otherwise be, relatively, of no value.

While Alamo suggests a range of figures within which its interests are valued, it suggests a logical renewal of its leases over a thirty-six year period, and suggests the maximum value thereof

would be $78,620, with the remaining $40,000 as the value of the State's interest.

Alamo entered into a lease agreement with the State in February of 1962. At the time of the condemnation that lease had approximately six years of its term remaining.

The evidence at trial disclosed that the premises in question had for many years prior to release by Alamo been used in conjunction with other lands and cattle ranching operations. The physical location of the two tracts is in proximity to Alamo's "home ranch" or headquarters.

In its cattle operations, Alamo owned 1,064.98 acres of fee land. It had 43,333.97 acres of Taylor grazing land, and in addition had leases on the two parcels in question, commencing in February of 1962 and terminating in February of 1972.

Section 37-291, A.R.S. (1956) provides for a preferential right of renewal in a lessee of state lands, subject to reappraisal of the rental by the State. The statute just cited was carried forward in the 1956 Code from the Revised Code of Arizona of 1928. This preferential right of renewal was upheld by the Arizona Supreme Court in Ehle v. Tenny Trading Co., 56 Ariz. 241, 107 P.2d 210. The Arizona Supreme Court in Ehle held the preferential right of renewal to be "a valuable, substantial right." The Supreme Court of New Mexico in State, ex rel. State Highway Commission v. Chavez, 80 N.M. 394, 456 P.2d 868, reached a like conclusion. Nebraska v. United States, 164 F.2d 866, points up the requirement of the Fifth Amendment that just compensation for the fee lands taken must be allocated or apportioned among the respective estates or interests on the basis of their relative values. In addition to the statutory preference granted

lessees, it has been the custom of the Arizona State Land Department that, lacking any real change of use or potential change of use in the immediate future, state leases subject to renegotiated rentals are renewed.

Alamo suggests that it would be reasonable to contemplate three renewals of the existing lease. This would contemplate, in view of the remaining term at the time of condemnation, a continued use by Alamo for thirty-six years.

While the location of the two sections in question is in the arid west-central part of the State of Arizona, which is at best sparsely populated, this Court is of the opinion that a thirty-six year period is too remote for a sustained contemplated use.

Had it not been for the condemnation, there is little doubt that the existing lease would have been renewed in 1972 upon its expiration. Had it not been for the condemnation, it is undoubtedly equally true that it is highly probable that the renewed lease terminated in 1982 would have been again renewed for a succeeding ten-year period.

The value of lands in the arid southwest, to a considerable extent is determined by the availability of water. In the instant case the evidence discloses that there was not only water available through the use of the flow of the Bill Williams River, but could also be developed on the lands, themselves, and had in the past been developed to some extent.

From the evidence adduced at the trial, it is the conclusion of this Court that the State of Arizona is entitled to receive from the funds on deposit as compensation for its fee interest condemned the sum of Fifty-seven Thousand Nine Hundred Seventy Dollars; that Alamo Land and Cattle Co., Inc. is entitled to compensation for its leasehold interest at the time of taking, and its reasonably prospective

leasehold interest the sum of Fifty-seven Thousand Forty-nine Dollars; that Alamo Land and Cattle Co., Inc., is entitled to the further sum of Three Thousand Six Hundred Dollars as the present value at the time of taking of its improvements.

WHEREFORE, IT IS ORDERED, ADJUDGED AND DECREED that from the One Hundred Eighteen Thousand Six Hundred Twenty Dollars on deposit with the Clerk of this Court, the Clerk shall pay to the State of Arizona as full compensation for its interest in Tracts 304 and 305 the sum of Fifty-Seven Thousand Nine Hundred Seventy Dollars; that Alamo Land and Cattle Co., Inc., is entitled to receive from the funds on deposit with the Clerk of this Court as full compensation for its leasehold interest and its improvements upon the lands in question the sum of Sixty Thousand Six Hundred Fifty Dollars.

DATED this 3d day of May, 1972.

/s/ Walter E. Craig
United States District
Judge

Copies sent to:
United States Attorney
State of Arizona, The Attorney General
Messrs. Renaud, Cook, Miller & Cordova

(The opinion of the United States Court of Appeals, Ninth Circuit, appears in the Appendix of Petitioner's Petition for Writ of Certiorari.)

(Defendant's Exhibit "B")
(Transcript 21, 22)

Lease No. C-2717

STATE LAND DEPARTMENT
STATE OF ARIZONA

GRAZING LEASE

THIS INDENTURE made and entered into this 8th day of February, 1962, by and between the State of Arizona, hereinafter called the lessor, and ALAMO LAND AND CATTLE COMPANY, INC., C/O SNELL AND WILMER, 400 SECURITY BUILDING, of Phoenix, State of Arizona, hereinafter called the lessee:

WITNESSETH, that the said State Land Commissioner, by virtue of the authority vested in him by law, and in consideration of the application heretofore made, and the covenants and agreements of this lease, hereinafter set forth, has this day leased to the said lessee the State Land, as hereinafter described, subject to any and all indebtedness that may be known to be due or that may be proven to be due hereafter.

TO HAVE AND TO HOLD the same for the period ending the 7th day of February, 1972, or date of sale, and subject to the conditions and reservations elsewhere set forth herein, for which lessee agrees to pay for each year, or fractional year, rental in advance as found to be due from the appraisals to be made from time to time by the State Land Commissioner, or his duly authorized agent, in accordance with the laws of the State of Arizona and the Rules and Regulations of the State Land Department.

IT IS HEREBY COVENANTED AND AGREED by both parties hereto, that this lease is issued subject to all the provisions and requirements thereto, which are found in the various Acts of the Legislature of the State of Arizona, the same as though they were fully set forth herein.

IT IS HEREBY FURTHER COVENANTED AND AGREED that all of the covenants, conditions and agreements, together with the description of the land included in this lease, contained in the supplemental sheet or sheets attached hereto shall be, become and are part of the lease, the same as though set forth in full over the signatures of the contracting parties hereto.

IN WITNESS WHEREOF, the Arizona State Land Commissioner, by virtue of the powers vested in him by law, has caused these presents to be executed by said lessor, at Phoenix, Arizona, on the day and year first above written, and the said lessee has hereunto affixed his signature at the place and on the day and year as set forth herein.

STATE OF ARIZONA,
LESSOR

By /s/ Obed M. Lassen
State Land Commissioner.

(SEAL)

By /s/ A. W. McGrath
Acting Deputy State
Land Commissioner.

Signed in the County of Maricopa, State of Arizona, on the 4 day of January, 1962.

(Sign Here) Alamo Land & Cattle Co., Inc.
Lessee.
by /s/ J. Michael

Andrews, Pres.

This lease is
issued in duplicate

STATE OF ARIZONA
LAND DEPARTMENT
GRAZING LEASE SUPPLEMENT

10 16 64
Mo Day Yr

ALAMO LAND & CATTLE
CARE SNELL & WILMER
400 SECURITY BLDG
PHOENIX ARIZ 85004

2717
Lease Number

| COUNTY | Location Sec | Twnshp | Range | DESCRIPTION | ACRES | Beginning C.C. | FUND |
|---|---|---|---|---|---|---|---|
| 14 | 2 | 10 N | 13 W | L 1 2 & 3 S2 PT L4 S2N2 | 620.92 | 03 | 30 04 |
| 8 | 2 | 10 N | 13 W | M&B IN L4 & SWNW | 22.00 | 03 | 30 04 |
| 14 | 36 | 11 N | 13 W | ALL | 640.00 | 03 | 30 04 |

(Space for description, not used)

Lessee Signature: [signed]
Commissioner: [signed]
Deputy

DATE
11/2/64
DATE
Nov 2 1964

Total Acres
1282.92

STATE OF ARIZONA
LAND DEPARTMENT
GRAZING LEASE SUPPLEMENT

Mo Day Yr

Lease Number

(Space for Description Not Used)

AMENDED Nov. 2 1964

Lessee Signature: [signed] DATE 1-4-62

Commissioner: [signed] DATE 2-8-62
Acting Deputy

## SUPPLEMENTAL CONDITIONS

(A) The lessee will not sub-let or assign the land herein described or this lease without the written consent of the State Land Commissioner, first obtained.

(B) The lessee will not permit any loss, nor commit or cause any waste in, to or upon said land; nor cut or remove nor allow to be cut or removed any timber or standing trees that may be upon said land, save and except only such as may be necessary for the improvement of said land, (and then only with the written consent of the State Land Commissioner) or for fuel for the domestic use of said lessee; provided that nothing herein shall be construed to permit the cutting of saw timber for any purpose.

(C) That the lessor excepts and reserves out of the grant hereby made, all oils, gases, coal, ores, limestone, minerals, fossils and fertilizers of every name and description that may be found in or upon the land herein described, or any part thereof.

(D) That the lessor reserves the right to execute leases covering the land herein described for the purpose of prospecting for, and the extraction of oil, gases, coal, ores, limestone, minerals, fossils and fertilizers.

(E) That the lessor also reserves the right to grant rights-of-way and easements over, across or upon the lands embraced in this lease for public highways, railroads, tramways, telephone and telegraph and transmission lines, pipe lines, irrigation works, flood control, drainage works, logging and other purposes.

(F) That if at any time after the execution of this lease, it is shown to the satisfaction of the State Land Commissioner, that there has been fraud or collusion upon the part of the lessee to obtain or

hold this lease at a less rental than its value, or through such fraud and collusion a former lessee of said land has been allowed to escape payment of the rental due for the use of said land by the former lessee, this lease shall be null and void, at the option of the State Land Commissioner, insofar as its relates to the land affected by said fraud or collusion.

(G) That if at any time after the execution of this lease, it is shown to the satisfaction of the State Land Commissioner, that the lessee herein has misrepresented, by implication or otherwise, the value of the improvements placed upon the land herein embraced by a former lessee, or any other person or persons and the lessee herein not being the owner of said improvements at the time of the execution of this lease, this lease shall be null and void, at the option of the State Land Commissioner, insofar as it relates to the land upon which said improvements are situated.

(H) That the lessor saves and reserves the right to relinquish to the Federal Government, at any time, the State's right or claim to any part of the land described herein, and thereupon this lease will be null and void insofar as it relates to the land the State has so relinquished.

(I) That if for any reason the State of Arizona should fail to receive title to any of the land described herein the State Land Commissioner shall cancel and declare void this lease insofar as it relates to the land to which the State has failed to receive title.

(J) If the lessee should fail to pay the appraised rental when due, or fail to keep the covenants and agreements herein set forth, the State Land Commissioner, at his option, may cancel said lease or declare the same forfeited in the manner provided by law.

(K) That the State of Arizona shall be forever wholly absolved from any liability for damages which might result to the lessee herein on account of this lease having been cancelled, forfeited, or terminated prior to the expiration of the full time for which it is issued.

(L) This lease is executed at the request of the lessee upon condition that lessee will pay such rental as may be fixed by the State Land Commissioner from time to time as now provided by law, or such as may be enacted hereafter, and that he will pay in accordance with the provisions of law for any improvements placed upon said land by a prior lessee thereof.

(M) Before the lessee shall exceed the 110% of the appraised carrying capacity as determined under sub-paragraph (f) Section 11-301 of Chapter 58, First Special Session 19th Legislature, he shall obtain written permission from the State Land Commissioner and pay the additional fees as provided by law.

(N) It is understood by the lessee that the establishment of any water right, or rights, shall be by and for the State of Arizona, and that no claim thereto shall be made by said lessee; such rights shall attach to and become appurtenant to the said land.

(O) If the lessee desires to place improvements on the land described herein the approval of the State Land Commissioner must first be obtained.

(P) This lease is offered by the lessor and is accepted by the lessee with the express understanding, not withstanding any provisions herein to the contrary, that it may be terminated by the State Land Commissioner upon thirty (30) days written notice at any time as to any land which may be reclassified as agricultural, commercial or homesites.

The State Land Commissioner expressly reserves complete discretion in respect thereto.

(Q) The terms, conditions and covenants of this lease are subject to present laws relating to state lands and the rights of both lessor and lessee hereunder, are each and all subject to such modifications as may be consistent with such amendments, revisions or repeals of existing laws as may hereafter be made, and no provisions of this lease shall create any vested right in the lessee herein.

* * * Blank Assignments.

(Defendant's Exhibit "D")
(Transcript 85, 95)

DEPARTMENT OF THE ARMY
U. S. ARMY ENGINEER DISTRICT, LOS ANGELES
CORPS OF ENGINEERS
P. O. Box 17277, Bay Station
Los Angeles, California 94017

Alamo Dam, Arizona - State Land — 1 February 1965

MEMORANDUM APPRAISAL

Introduction:

This estimate covers State land as follows:

Gila and Salt River Meridian, Yuma and Mohave Counties, Arizona.

| | |
|---|---|
| T. 11 N., R. 12 W., sec 16 | 640.00 acres (Tract 307) |
| T. 11 N., R. 13 W., sec 36 | 640.00 acres (Tract 305) |
| T. 10 N., R. 13 W., sec 2 | 642.92 acres (Tract 304) |
| Total | 1,922.92 acres |

These are separate parcels although sections 2 and 36 have a common corner and both are leased by the Alamo Company. Section 16 is leased by Chester Fuller, who also operates, and is a 30% owner, in the Alamo Company.

All three sections have lessee-owned improvements.

The moveable improvements Mr. Fuller salvaged from Tract 307 (sec. 16) and the 15 acres of bottom land clearing (covered by another appraisal) are not covered here. The grading and ditching by the lessee on Tract 307 (sec. 16) are included here.

All existing improvements are covered on section 2 and 36 (Tracts 304 and 305, respectively).

Purpose:

The purpose is to appraise the fair market value of the entire bundle of rights conveyable by the State and the State's lessees.

Certification:

I certify that I investigated the value and last inspected the properties with Mr. Chester Fuller, 29 January 1965. My estimate of fair non-federal market value is:

$169,820

I also certify that I have no present or intended interest in the properties.

/s/ Robert A. Rowe
Robert A. Rowe
Appraiser

Attachments:
Ltr, Fuller to LADO 11 Jan 65
Sales Map.

Location and General Discription:

This area is an oasis in the desert formed by two flowing streams which drain higher, more humid, mountainous areas.

The three sections of State land involved in this estimate extend to the river valley floor in each case. The Big Sandy Creek and Santa Maria Rivers join within the proposed reservoir area about 46 miles east of the Colorado River. They form the Bill Williams River, which extends from that confluence westerly to the Colorado River immediately above Parker Dam. That Dam is located about 180 miles upstream from the mouth of the Colorado River and about 150 miles downstream from Hoover Dam.

The Bill Williams River has a drainage area of approximately 5,500 square miles, 4,000 of which is above the proposed dam, which basin lies in the west central portion of Arizona, within Yavapai, Mohave, and Yuma Counties

The proposed dam and control basin reservoir include land in the latter two counties. The dam, as planned, is to be located about 39 miles upstream from the mouth of the Bill Williams River.

Access:

There is no direct access upstream from the mouth of the Bill Williams River to the dam site or basin. A new hard-surfaced road from the south at Wenden, Arizona, has now been completed by the Los Angeles District Office. There is a sandy, graded road, westerly from Congress Junction, which small town is a slightly greater distance from the dam site or crossing than is Wenden.

There are two roads, south from Highway No 66

to the basin. This highway is the main Los Angeles-Needles-Flagstaff-Albuquerque Highway, which is designated as a transcontinental defense route. None of these dirt roads are to be relied upon after rainstorms have occurred. Since 1953, Alamo Crossing is not the major route across the river. At that time the manganese Mills were established at Brown's Crossing, upstream from the old Alamo route.

This upstream location is on soil and slope which makes it useable by passenger cars when it is impossible to ford the stream at the old Alamo Road.

There is a filling station and cafe at Brown's Crossing, whereas there is nothing in use at Alamo Crossing other than a group of minimum residences which are often not occupied.

There is no public transportation nearer than the three points of road access mentioned.



Alamo Dam, Arizona -
State Land

Climate:

The closest Weather Brueau records were taken at Signal, at an elevation about 400 feet higher and about 12 miles northerly of Alamo Dam. The yearly maximum temperature varied from 110 to 120 degrees Fahrenheit. The average daily maximum temperature was about 105° and the average daily minimum was 73°.

The average rainfall was about six inches per

year.

The general area is windy and dusty, but the river bottom trees provide local protection.

Topography:

There are steep mountains on the major plateaus out of the river valley and there are precipitous cliffs near the valley, but the general area does not vary greatly in basic altitude. The Bill Williams River has a rather flat bed with a 16-foot drop per mile.

The Big Sandy Creek and Santa Maria River both fall at about twice that rate.

All three of the State sections extend from the valley floor upslope to the south.

Soils:

The soils in the region vary greatly and are moderately alkaline in general. Diked irrigated pasture which has been in use for some time ordinarily shows a pronounced alkaline condition. The density of vegetation is controlled by moisture rather than by soil. There is sub-irrigation in the valley floor. The bottom lands are cultivated, but dependency is upon irrigation for crop production. There is no more than 100 acres of good agriculture soil within any of the State sections. New clearing of part of the better soil has been done on both sections 16 and 36.

Water Supplies:

Irrigation in the general area is from wells with related overnight reservoir storage, from sumps supplied by underground water flows, and from gravity flow irrigation ditches. There is some sprinkler irrigation. Until recently, there was

only one major form of irrigation. The water was turned out of the dam bed and diverted along the upper edge of the relatively flat bottom land located downstream. It was spread out by a process usually called flood irrigation. Each of these three State Sections have been irrigated in part by a flooding system at various times in the past. There have been domestic wells on each and there are two springs on Section 36. One of these has been used for domestic water supply for many years and both of them have been used





Water Supplies: (cont'd)

continually for livestock water. These springs are valuable, partly because livestock may be contained near the spring even when the rivers were flooding and consequently washing fences away.

Present Use:

The only present major use of the reservoir area is for three operating cattle ranches. The Alamo Land Company leases State sections 2 and 36 (Tracts 304 and 305) and Mr. Chester Fuller leases section 16 (Tract 307). The third rancher, Mr. Madrill, has made use of water from section 36 (Tract 305) spring and his employees and relatives have occupied residences on that section by permission of the Alamo Land Company (the lessee). There has been some bird and mammal hunting in the area. Quail hunting is particularly attractive. There are fishing pools upstream

from section 16 (Tract 307).

Highest and Best Use:

The bottom land's highest and best use is for agricultural and recreational activities, and its usefulness is enhanced as a result of the fact that hay or irrigated pasture may be substituted for forage which otherwise would have to be hauled in, in order that livestock breeding nuclei could be maintained during dry periods.

The higher, more barren, land has very little present usefulness except for grazing and other minor value uses associated with the developed valley floor.

Since livestock are pastured on the adjoining desert areas, the crop or irrigated worth is local in nature. At the river, the dry season insurance type forage is the price, in Phoenix plus the transportation from that city, rather than its worth (in the case of hay) at Phoenix, less the transportation from Alamo. There is not sufficient local need for any expanding of irrigated forage production now apparent. If cotton were produced, there would be no local market and there is little residual livestock forage value in that crop, but there are no cotton allotments, consequently cotton production does not figure as highest and best use.

There are nearby mining activities but these are very minor at this time and the market situations which caused greater activity in the past are not expected to recur.

State Land:

The present acquisition planned consistent with both Design Memorandum No. 1; and the as yet unapproved, Design Memorandum No. 3,

includes three State-owned sections in their entirety. There are compensable interests held by lessee in this property. They include ditching, clearing, grading, fence, a residence, and water developments.

The State Land Department has frozen additional lessee improvements.



Alamo Dam, Arizona -
State Land

History:

Alamo Crossing is reported to have had a store and a few houses in the 1880's, where there was considerable mining activity in the area. However, there was a Spanish settlement before this was a part of the United States, and there was a flour mill near the crossing at that time; grapes were grown; and there was a relatively self-sustaining community. Its cash income was not agricultural but mineral. Mines were productive over a considerable number of years northerly in a copper area, but gold was the interest-causing mineral in the valley until the occurance of the manganese development of approximately 10 years ago. This activity has now reached a quiet stage.

Travel up and down the Bill Williams, Santa Maria, Big Sandy River System was advantageous 100 to 150 years ago, because this stream was one of the two rivers flowing continuously from east to west through southwesterly Arizona. Human and horse forage and water were available at all seasons in this valley. Bill Williams, a trader,

explorer, trapper, and missionary traveled this route and gave the river his name. His diaries include data on water flow and agricultural productivity.

New mineral claims were restricted in the valley during territorial days by withdrawal of a "Power Site" reserving mineral interests to the Government, including "all lands located within one mile of either bank of the Bill Williams River, beginning at Planet and extending 20 miles up river from that point". A later (1927) "Power Site" withdrawl reserved specifically described land as to filing of claims for mineral. These withdrawals, as well as Public Land Order 492, for the Alamo Reservoir, affect the validity of mineral claims.

Agriculture is spotty in that it is confined to these areas where the river valley is wide enough for crop production out of the main channel and below the walls of the general depressed valley. The agricultural islands below the dam site are between River Mile 20 and Mile 36 at Planet and the Lincoln Ranch. The latter ranch was purchased in 1961 by the Dale Smith Interests of Chandler, Arizona. This ranch was once irrigated by gravity flow from the Bill Williams River. Diversion tunnels were blasted through the walls of the canyon below the locations of the planned dam. Irrigating water is now pumped from wells located within the farming area and from the stream. An ordinary market assumption in the locality is that water rights by stream diversion have been abandoned. Also, since well drilling and pumping have become more practical, such diversion is uneconomic.

The beginning of the manganase development and the establishment of the mills on the Mohave County (or northerly) side of Brown's Crossing upstream about three miles from Alamo Crossing

was coincidental with the establishment of the filling station and store on the Yuma County side of the same crossing.



Alamo Dam, Arizona -
State Land

History: (cont'd)

A post Office had been opened at Alamo Crossing about 1913, but was closed two or three years later. As mining declined, most of the buildings, which had not been destroyed by floods, were torn down for the salvage materials. Cattle raising then became the main source of income, although some mining activity existed continually. The sparse population of the area now consists of a few ranchers, miners, and retired people. There are no residential concentrations within the taking area, although there are both temporary and permanent residents in this area from just below Alamo Crossing to just above Brown's Crossing, which area is within sections 34 and 35 in T. 10 N., R. 13 W., and sections 7, 18, 19, and 20, in T. 11 N., R. 12 W. The value of the irrigated land has decreased as far as having usefulness in connection with mineral development in that garden and other feeds have been brought in, rather than produced locally in recent years; however, agricultural land value has increased and has been a stablizer for the livestock industry. There are years and portions of years of very high production of native valuable livestock forage produced in the adjacent desert areas, which are largely Public Domain. Permanent ranches, however, are based upon property which will maintain livestock in dry seasons or,

at least, maintain the basic breeding herds until more favorable circumstances for forage production occur. Consequently, base land has value outside of its productivity as compared to general agricultural areas where price per ton of forage per acre can be prorated as a direct value. Here hay may keep animals alive, or irrigated pasture may make it possible to make use of desert forage at a later date, which forage will actually produce a considerable profit in that rapid gains are made at little cost to the livestock owner.

Farm land in this isolated type of oasis, therefore, is not readily comparable with major areas of irrigated hay and pasture production. Also, from a valuation point of view, it is a somewhat involved process to value irrigated land since in civil acquisition, it is not possible to pay for grazing permits or licenses on Public Domain administered under the various features of the Taylor Grazing Act of 1934. In other civil acquisitions in Nevada and Arizona, this fact has been noted. However, the trend of desert ranch values still affects the trend of irrigated land values because of the inter-relation of the two.

A buyer would consider what usable desert values he would acquire as a result of securing the stabilizing permanent value headquarters usefulness in an irrigated hay and pasture production area. Consequently, the market value of these riverbed lands is inseparable from their usefulness in connection with the dry grazing areas on both sides of the river, which desert areas are useful only when water, livestock control, and dependable forage can be relied upon. It is relevent to note that commensurate permit values under the Taylor Act in Arizona and part of Nevada, contrary to the situation in all the rest of the western states, are based upon water, not primarily upon land holdings, and the water in the river and nearby springs is definitely related

to the fee ownerships thereon, although there are numerous points at which Public Domain intersects the river.



Alamo Dam, Arizona -
State Land

History: (cont'd)

The interest in recreational value in any oasis area is increasing rapidly throughout Arizona. The general livestock net profit situations have been adverse to ranch values since 1951. However, the demand for unimproved ranch property has been favorable as a result of tax savings to those people in the higher income brackets; consequently, there has been a very attractive feature to Southern Arizona properties in that connection. Details are available in this regard.

Actual results of tax regulations are a near costless ownership within a ten-year period, at which time the property can be sold with only Capital Gains Tax being paid, so that the financial return to the person having outside interests, who purchases this undeveloped land, is based upon a different viewpoint than that of ranchers who have no other businesses and are in the lower income tax brackets. Examples of this in the specific area include the Lincoln Ranch and James Minotto Ranch. The cutoff date for most advantageous improvement depreciation is 1 January 1964 however.

Taxes:

Unimproved land is taxed by both Counties at

$1 - $5 per acre.

There is no nearby school in either County. The tax rate is about 3¢ in Mohave County and 5¢ in Yuma County.

Tax valuations are not up-to-date. They do not reflect recent land clearing and water distribution facilities.

Discussion of Leasehold Bargain in State Land:

This discussion is based on experience as an appraiser with State land leasing market in several western states together with past and current management in Colorado and Arizona.

The general situation is that state land grazing leases are considered to be a bargain almost without exception in all states but California. Minimum charges have been too high for the demand for the poorest grazing land held by the State in California. Even here, however, grazing land with existing water supply or favorable indication has been in good demand even under the poorest livestock price and cost situation. All three of the State sections with which this estimate is concerned have water actually present and good prospect for additional supply.

One of the factors which has made State land a bargain as compared to Federal land leases and permits has been elegibility under the National Agricultural programs. AAA, ASC, and related payments have been paid regularly for water development, drift fencing, water distribution by level terracing or contour furrowing, legume planting, offset disk sodbreaking, pitting, brush chaining or railing, plant control by chemical means, and many other practices.

Discussion of Leasehold Bargain in State Land: (cont'd)

On U. S. Forest grazing permits and leases; on U. S. Bureau of Land Management grazing leases and permits; and on U. S. Bureau of Reclamation grazing transactions the Federal Agricultural programs have not considered Federal land as an eligible category. Other Federal help through S&M funds and refund proration of permit fees has not been comparable to the agricultural programs as to amount and availability of money or proportion of grantee contribution.

Under that situation State land subject to development has been in much greater demand than has been the case on Federal grazing leases and permits.

Tenure has been stable even when the leases have cancellation clauses and termination dates. Preference for renewal has been both officially sanctioned and practiced as a custom.

Tract 304 (sec. 2)

This section is leased to the Alamo Land Company.

A well has been drilled and roads and trailer pads have been constructed on this section. This work has been done by Government in preparation for the Alamo Dam construction. None of this construction is reflected in this value estimate. However, the result of the well drilling at the edge of the Bill Williams River does tend to confirm the reports that the old well dug near these provided enough water for a garden and horse pasture over many past years.

The two section corners of the south were found.

The two northerly corners were not located, but the easterly line was eyeballed from the 1/4 corner common to sections 35 and 36, which corner is 1/2 mile northerly of the assumed location of the northeast corner of section 2.

There is about one mile of lessee-owned fence on the section, but it is not intended to be on any boundary. It is located where it would confine cattle, could be constructed at low cost, and would not require excessive maintenance as a result of flood caused erosion.

The major portion of section 2 is valuable for crop and pasture production. The only good soil which is fairly level is also quite close to the river bottom and consequently difficult to farm, even if some portions are not subject to frequent flooding.

The valuation basis is upon the following factors:

a. A certain water supply within section 2, but at the lowest elevation,
b. Only 10 acres of crop land and clearing required before use.





c. Fair access from north and from southeast prior to Government road construction.
d. View of river bottom from above.

Recreational oriented homesite would be the best market.

Hunting, both technical and popular geological study, and historical interest are attractive features for potential residents.

Tract 304 Estimated Value of Total Non-Federal Bundle of Rights is:

642.92 acres @ $75 = $48,219
(including all lessee's interests) R.O. $48,220*

Division of Lessee's Interest Market Value on Transfer:

| | |
|---|---|
| Old Well | $100 |
| 1 mile new fence (3 yrs old) (not on boundary) | $500* |
| 4-strand barbed wire with metal posts at 30' intervals; 3 wire stays between posts; (3 yrs old) | |
| Leasehold bargain due to formula rental being below market (carrying capacity unit and percent of last year's cattle price) | $200 |
| Total Lessee's Interest: | $ 800* |

Total Interest of the State: $47,420

($73.76 per acre)

*If this fence is relocated as requested in January 1965 letter, Chester Fuller to Colonel Peacock, this $500 item should be omitted.

Tract 305 (sec. 36)

This section of State land is leased to Alamo Land Company.

The two all-weather springs are the most unusual features of this section of land.

The northwest corner of this section 36 is on the south side of the old Alamo Crossing.





Tract 305 (sec. 36) (cont'd)

The west quarter corner is at two _____ (unreadable) rocks on the trail road leading south. The new fence is inside (easterly of the west boundary) of the section line. There are no other fences. The total fence is slightly in excess of one mile. It is new, 4-strand barbed wire, with metal posts at 30-foot intervals, with three wire stays per panel.

There is an old residence and concrete cook house in the NE¼ NW¼. There is a water flow from springs just easterly of these buildings in the same quarter section. This spring water supply

has been the source of a gravity flow water supply for the split level house often referred to as the Sherman or Allen house. The property has been used intermittently. The cook house was built in the early fifties when an ore mill superintendent lived there.

There is another live spring a short distance easterly from the west quarter corner.

There is a bee stand shelter, of no value, located on the SW¼ NW¼.

The Government has built and/or improved over 1½ miles of road on this section. Part of the excavation for borrow material testing for the dam is on the NW¼ NW¼. No advantage or disadvantage resulting from these Government activities are reflected here.

There have been preliminary clearing activities by the lessee, the Alamo Land Company, but debris removal was not complete because of the freeze put on development as a result of a 1961 conference of LADO and the Arizona State Land Department representatives.

Mr. Fuller stated, 29 January 1965, that he paid $5,000 for the house, cook house, spring development, pipe line, and leasehold bargain when he agreed to buy the Ellsworth Ranch in 1960. The 1-miles of fence was put on after that time. The water system has deteriorated within the house, but the water flow is still working to and beyond the house. The flow from the spring is down grade on a protected side of the wash so that reliability and maintenance cost are favorable.

The major value of this section is its residential, ranch headquarters, speculative recreational value, and reliably predictable multiple usefulness.

All of this is directly related to the two proved flowing springs located where erosion from high ground or from the river bed cannot occur. The water quality and the dry season flow are both well proved over many years. Such sites are extremely scarce and in considerable demand.



Alamo Dam, Arizona -
State Land

Tract 305 (sec. 36) (cont'd)

Tract 305 Estimated Value of
Total Non-Federal Bundle of Rights is:

| | |
|---|---|
| 640 acres @ $110 per acre (including all lessee's interest) | $70,400* |

Division of Lessee's Interest Market Value on Transfer:

| | |
|---|---|
| House, cook house, spring development, and pipe to house. | $2,000 |
| Fence (over 1 mile 4-strand barbed wire with metal posts at 30' intervals; 3 stays between posts) . . | $ 500* |
| Clearing - 10 acres @ $50 per acre. . | $ 500 |
| Bargain in leasehold | |

resulting from less
than market charge
on formula rent (based
on carrying capacity
and percent adjusted
for market price of
cattle prior year. $3,000

Total Lessee's Interest: . . . $ 6,400*

Total Interest of the State: . $64,400
($100+ per acre)

*If this fence is relocated as requested in January 1965 letter from Mr. Chester Fuller to LADO, this $500 item should be omitted.



Alamo Dam, Arizona -
State Land

Tract 305 (sec 36) (cont'd)

Detail on Building:

The dwelling shown in the snapshot below is deteriorating rapidly. It is split level rock and frame with metal roof. Largest space enclosed on top level is 640 square feet. Cook house is all frame - 140 square feet. Water supply is in poor order, but supply is proved.

[PICTURE]



Alamo Dam, Arizona,
State Land

Tract 307 (sec. 16)

Structures and clearing of 15 acres have been appraised and will be conveyed separately, by agreement made prior to the effective date of this appraisal. Removal of structures, at the salvage value, is planned, but the items of property had not been removed on the date of the last inspection (29 January 1965). The clearing, of course, can not be removed.

The ditching was abortive, intended for two purposes; (a) to distribute water for a sloping pasture, (b) to lead to a proposed lake at a location which could have been completed by moving a small yardage of soil a short distance.

The water source was on adjoining fee land so neither project was to be completed within the State-owned section 16 (Tract 307).

Only a small part of the 640 acres had soil which could be levelled to advantage. The most level portion is subject to flooding. The northeast corner marker has apparently washed away or been covered with silt and debris.

The combination of pasture and level crop land which might be irrigated from a well on the tract would not justify the cost of the well together with the cost of pumping southerly up-grade either for sprinkle or flood irrigation. Even after allowing for extra value of plottage within the ranch, the total value is less for agriculture than is the probable market for recreational homesite use. Pumping water up-grade for domestic use would be economical.

The view is good north from the upper (southerly) slopes, the drainage is good, and the immediate access development costs are very little. Grazing production would be more feasible for resident's riding horses than for production of beef animals.



Alamo Dam, Arizona -
State Land

Tract 307 (sec. 16) (cont'd)

Tract 307 Estimated Value of Total Non-Federal Bundle of Rights is:

640 acres @ $80 (including all lessee's interests remaining

| | | | |
|---|---|---|---|
| after his buying improvements to move to new headquarters on other State land already contained within his ranch) | | | $51,200 |
| Division of Lessee's Interest Market Value on Transfer: | | | |
| Grading - 20 acres (amounts to smoothing slope) | $100 | | |
| Road | $ 75 | | |
| Preliminary work on Ditching | $120 | | |
| Total improvements (marketable by lessee) | | R.O. $300 | |
| Bargain leasehold particularly because of providing a profitable use area for water from fee land (20 acres @ $10) | $200 | | |
| Result of less than market charge on formula rent (based on carrying capacity and percent adjusted for market price of cattle in prior year) | $300 | $500 | |
| Total Lessee's Interest: | | | $ 800 |
| Total Interest of the State: | | | $50,400 |

($78.75 per acre)

Supporting Data:

See sales location on attached map.

Sale No. 1:

| | |
|---|---|
| Legal Description: | Mohave County, Arizona, G&SRM, T. 14 N., R. 12 W., sec 19, E½ SE¼ |
| Acreage: | 80 acres |
| Location: | About 6 miles southeast of Wikieup on Burro Creek (it has previously been reported as SW of Wickieup). |
| Date of Sale: | Deed dated 5 March 1964; recorded 26 August 1964; Book 163, page 282 |
| Granter: | Dean W. Coffman, 23 West 6th Avenue, Scottsdale, Arizona |
| Grantee: | William Munz, Box 639, Nome, Alaska |



Alamo Dam, Arizona -
State Land

Supporting Data: (cont'd)

Sale No. 1: (cont'd)

| | |
|---|---|
| Verified By: | Mr. Dean W. Coffman by telephone, 2 February |

1965, at 945-5749.

Terms: Cash

Price: $50 per acre

Improvements: None, but land included Burro Creek water, and power and road are to the land.

Remarks: W½ and W½ SE¼, same section, is listed with Flying K Realty, Kingman at $100 per acre.

Sale No. 2:

Legal Description: Mohave County, Arizona, G&SRM. T. 11 W., R. 12 W., sec 10; E½ SW¼, SE¼ SW¼, SW¼ SE¼

Acreage: 155 acres

Location: On north side Santa Maria River, having common corner with subject section 16

Date of Sale: 18 April 1961, recorded 25 April 1961, Book of Deeds 112, page 244, Mohave County, Arizona

Grantor: Gordon Olea

Grantee: Chester and Maxine Fuller, h/w

Verified By: Chester Fuller

Terms: Equivalent to cash

Price: $103.22 per acre - $195 per farmable acre when developed

Improvements: Well not in order, old adobe house, and broken down corral - no value except that well record indicated shallow water with slow draw down.

| | |
|---|---|
| Remarks: | About 10-12 acres were actually farmable when bought, but water supply and clearing have been added. |

Sale No. 3:

| | |
|---|---|
| Legal Description: | Mohave County, Arizona, G&SRM. T. 14 N., R 12 W., sec 14; that portion of E½ NW¼ lying north of the center of the Santa Maria River as located when surveyed. |
| Acreage: | 30 acres (has been mentioned at 20 without checking G.L.O. Survey) |
| Location: | Just northwest of subject sec. 16 |
| Date of Sale: | 15 August 1961, recorded 19 September 1961; Book of Deeds 117, page 152 |
| Grantor: | Gordon Olea |
| Grantee: | Chester and Maxine Fuller, h/w |
| Verified By: | Chester Fuller |
| Terms: | Equivalent to cash |





Supporting Data: (cont'd)

Sale No. 3: (cont'd)

| | |
|---|---|
| Price: | $57 per acre overall average (based on 30 acres - not 20 acrea); or $170 for 10 acres irrigible). |
| Improvements: | None except land clearing. |
| Remarks: | The buyers apparent motive was blocking of holdings |

Sale No. 4:

| | |
|---|---|
| Legal Description: | Yuma and Mohave Counties, Arizona, G&SRM; T. 11 N., R 16 W., sec 32; NE¼, E½ NW¼, NW¼ NW¼, E½ SE¼ and SW¼ SE¼ |
| Acreage: | 400 acres |
| Location: | On both sides of the Bill Williams River about 23-27 miles west of subject sections. |
| Date of Sale: | 16 January 1963 for Certificate of Purchase, recorded 22 November 1963, Docket 314, page 149 |
| Grantor: | State of Arizona |
| Grantee: | G. L. Gibbons for Arizona Ranch & Metals Co. |
| Verified By: | Charles Poole of Arizona Ranch & Metals Co. at plant |
| Terms: | $20,000 for the parcel with $2,000 down and balance over 25 years @ 5% |
| Price: | $50 per acre for land with $12.78 more per acre for improvements |
| Improvements: | $4,600 improvements already owned by Arizona Ranch & Metals Co. |
| Remarks: | The access to Parker, |

| | |
|---|---|
| | Arizona is superior to the access to Wickenburg from subject sections 2, 16, and 36. It is 24 miles to Parker by the best road. About 3/4 of the area is farmable now, but needed clearing when bought. |
| Buyer's Motives: | This is a blocking purchase in anticipation of less flooding when Alamo Dam is completed. |

Sale No. 5:

| | |
|---|---|
| Legal Description: | Yuma and Mohave Counties, Arizona, G&SRM, T. 11 N., R 16 W., sec 36; all |
| Acreage: | 640 acres |
| Location: | 20 - 24 miles west of subject parcels on both sides of Bill Williams River |
| Date of Sale: | 16 January 1963; recorded 22 November 1963, Docket 365, page 359 |
| Grantor: | State of Arizona |
| Grantee: | Arizona Ranch & Metals Co. |
| Verified By: | Mr. Charles Poole of Arizona Ranch & Metals Co. |

Supporting Data: (cont'd)

Sale No. 5: (cont'd)

| | |
|---|---|
| Terms: | Usual State 10% down on land and 5% on balance due. |
| Price: | $50 per acre for land, or $63.75 total cost. |
| Improvements: | Owned by the buyer |
| Remarks: | This was a proved water area prior to this sale. The buyer's well was on fee ownership on sec. 35 about 15 feet from the State's boundary. The access to Parker was shorter than any of the subject State sections' access to Wickenburg. |
| Buyer's Motives: | This is a blocking purchase in anticipation of less flooding after Alamo Dam is completed. |

Sale No. 6:

| | |
|---|---|
| Legal Description: | Mohave County, Arizona G&SRM, T. 11 N., R. 16 W., sec. 21: all |
| Acreage: | 640 acrea |
| Location: | North side of Bill Williams River |
| Date of Sale: | 5 June 1962; recorded 20 July 1962, Book of Deeds 126, page 76, Mohave County |
| Grantor: | Marvin L. Miller and wife; |

| | |
|---|---|
| Grantee: | Michael S. Neehes and wife; Howard A. Barnett, and Robert M. Scholnik and wife. |
| Verified By: | Arizona Ranch & Metals Co. |
| Terms: | Charles Poole of Arizona Ranch & Metals Co. |
| Price: | Equivelant to cash |
| Improvements: | $42.97 per acre |
| Remarks: | This land is raw, near farming land. Has road to Kingman, Arizona passing by. |
| | Less isolated from a good center (Parker) than the subject sections 2, 16, and 36. Is more level than they are. |

Sale No. 7:

| | |
|---|---|
| Legal Description: | Yuma County, Arizona, G&SRM; T. 10N; R. 14 W., sec. 5: SW¼ sec. 6: 300' x 700' and E½ SE¼ |
| Acreage: | 235.18 acres |
| Location: | 12 - 15 miles west of subject sections 2, 16 and 36. |
| Date of Sale: | Sales Agreement 9 August 1963, recorded 14 August 1963; Docket 359, page 39 |
| Grantor: | Lawrence D. and Burley Mae Johnson, h/w |
| Grantee: | Robert J. and Lola M. Rankin, h/w |

Supporting Data: (cont'd)

Sale No. 7: (cont'd)

| | |
|---|---|
| Verified By: | Mrs. Rankin |
| Terms: | Liberal; 1/4 down and $3,000 per year plus 6% on unpaid balance. |
| Price: | $160 per acre; well value in land, house no commercial value |
| Improvements: | Small rock house (no commercial value); road, well, and irrigation ditches and clearing. |
| Remarks: | The well, clearing, and irrigation ditches are all reflected in the land. |

Sale No. 8:

| | |
|---|---|
| Legal Description: | Yuma County, Arizona, G&SRM; T. 10 N., R. 14 W.,<br>sec. 4: SW¼ SW¼<br>sec. 5: N½ SW¼<br>sec. 9: W½ NW¼ |
| Acreage: | 200 acres |
| Price: | $40 per acre |
| Location: | South side of Bill Williams River; 10-14 miles west of subject sections 2, 16 and 36 |
| Date of Sale: | 21 October 1963; recorded 23 October 1963; Docket 363; page 617, Yuma County |
| Grantor: | Thomas F. Tobin |

| | |
|---|---|
| Grantee: | Samuel F. and Winnie A. Mitchell, h/w |
| Verified By: | Mr. Mitchell |
| Terms: | Equivalent to cash |
| Improvements: | None, except jeep road |
| Remarks: | The last part of the road is poor in comparison to the subjects', which were also subject to flood closing. |

Summary:

The appraiser has detailed knowledge of large ranch sales, including those which included leasehold on these three sections of State land. They were both distress sales having little bearing for that reason as well as being unrepresentative because such Public Domain grazing permit preference right (commensurability) was dependent on water supply from fee and other land, including this State land. The sales above are superior to any others found as a basis of comparison because of water, access, size, soil, and all other demand and supply factors.

16

Petitioner and Respondent agree to the above contents of the single Appendix.

ALAMO LAND & CATTLE CO., INC., Petitioner

By _____
J. Gordon Cook

STATE OF ARIZONA

By _____
Peter C. Gulatto
Assistant Attorney General, Respondent